

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

BRIAN KEITH BECK, )  
vs. )  
Plaintiff, )  
vs. )  
JOHN DOE 1, WARDEN, OKLAHOMA )  
CITY, ET AL., )  
Defendants. )  
NO. CIV-07-0103-HE

## **ORDER**

Plaintiff Brian Beck, a federal prisoner appearing *pro se* and *in forma pauperis*, brings this action pursuant to Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971), alleging violations of his federal constitutional rights. Pursuant to 28 U.S.C. § 636(b)(1)(B), this matter was referred to Magistrate Judge Valerie K. Couch, who recommended that the plaintiff's motion for default judgment against defendants Dr. A. Upchurch, D.D.S., and Harly Lappin be denied and that plaintiff be given additional time to effect proper service upon Dr. Upchurch. Judge Couch further recommended that, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), the plaintiff's claims against Defendants Lappin, John Doe 1, and John Doe 2 be dismissed for failure to state a claim upon which relief may be granted.

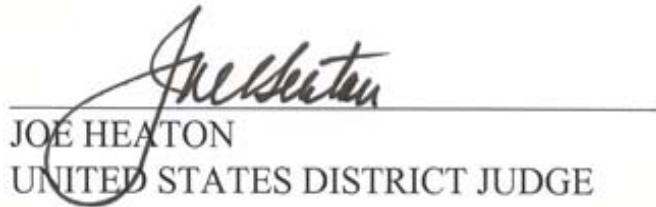
Plaintiff has failed to object to the Report and Recommendation and, therefore, has waived his right to appellate review of the factual and legal issues it addressed. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996). See 28 U.S.C. § 636(b)(1); LCvR 72.1. The court has also considered the merits of the motion and

substantially concurs with Judge Couch's analysis.

Accordingly, the court **ADOPTS** the Report and Recommendation [Doc. #24]. The plaintiff's motion for default judgment [Doc. #19] is **DENIED**. The plaintiff's claims against Defendants Lappin, John Doe 1, and John Doe 2 are **DISMISSED** without prejudice. Plaintiff must effect proper service on Dr. Upchurch no later than **December 14, 2007**, or the claims against this defendant will be dismissed as well.

**IT IS SO ORDERED.**

Dated this 14<sup>th</sup> day of November, 2007.



JOE HEATON  
UNITED STATES DISTRICT JUDGE